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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,643	09/30/2003	Victor T. Massey	081589-0306133	1141
909	7590	04/05/2006	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			STRIMBU, GREGORY J	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			3634	
DATE MAILED: 04/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/673,643	Applicant(s) MASSEY ET AL.	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005 and 13 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

In light of the applicant's amendment of claim 23, the restriction requirement is no longer proper at this time. However, should the claims be subsequently amended such that the restriction requirement would once again be proper, the restriction requirement will be issued again.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-8, 10-17, 22, 32-36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Hagemeyer et al. Hagemeyer et al. discloses an astragal assembly 62 comprising a metallic rail 79 having an exterior portion (not numbered, but shown in figure 6 as the lowermost portion of the rail), an interior portion (not numbered, but shown in figure 6 as the horizontal portion extending into the wooden insert 78 only on the left hand side of the rail) spaced from and opposed to the exterior portion, and a side portion (not numbered, but shown in figure 6 on the left hand side of the rail) extending between the exterior portion and the interior portion, wherein an elongated open channel (not numbered, but shown in figure 6) is defined in the metallic rail with sides formed by the exterior portion and the interior portion and a base formed by the side portion; the elongated open channel having an opening (not numbered, but shown

in figure 6 opening to the right) extending between the exterior portion and the interior portion and opposed to the side portion, and a wooden insert 78 retained within the elongated open channel in the metallic rail, hardware (not numbered, but shown in figure 6 as the screw) is attached directly to the insert, an interior flange (not numbered, but shown in figure 6 extending above the wooden insert 78), a stop shown in figure 6 receiving the gasket 54, an exterior flange (not numbered, but comprising the right hand side of the exterior portion of the rail which extends vertically toward the passive door), a passive door 28, an active door 26, the side portion includes a thermal break (not numbered, but comprising the gap between the exterior flange and the side portion).

Claims 1 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wendt. Wendt discloses an astragal assembly for attachment to a passive door, comprising: a metallic rail 22 having an exterior portion 25, an interior portion 26 spaced from and opposed to the exterior portion, and a side portion 23 extending between the exterior portion and the interior portion, wherein an elongated open channel is defined in the metallic rail with sides formed by the exterior portion and the interior portion and a base formed by the side portion; the elongated open channel having an opening (not numbered, but shown in figure 3) extending between the exterior portion and the interior portion and opposed to the side portion; and a wooden insert 19 retained within the elongated open channel in the metallic rail, the side portion includes openings (not shown, but comprising the openings for receiving the screws 47 as shown in figure 3) to receive fasteners 47.

Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Selzer. Selzer discloses an astragal assembly for attachment to a passive door, comprising: a metallic rail 90 having an exterior portion (not numbered, but shown in figure 3 as a vertical portion of the rail on the left hand side thereof), an interior portion (not numbered, but shown in figure 3 as a vertical portion of the rail on the right hand side thereof) spaced from and opposed to the exterior portion, and a side portion (not numbered, but shown in figure 3 as the horizontal portion extending between the exterior and interior portions) extending between the exterior portion and the interior portion, wherein an elongated open channel is defined in the metallic rail with sides formed by the exterior portion and the interior portion and a base formed by the side portion; the elongated open channel (not numbered, but shown in figure 3 opening upwardly) having an opening extending between the exterior portion and the interior portion and opposed to the side portion; and a wooden insert (not numbered, but shown in figure 3) retained within the elongated open channel in the metallic rail, the exterior and interior portions each have a hook 91, 92.

Claims 23, 25-29 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Procton. Procton discloses a door assembly, comprising: a passive door 11 having an outer edge (not numbered, but shown in figure 2); an active door 12 having an outer edge (not numbered, but shown in figure 2), wherein the active door is mounted for movement between an open position and a closed position in which the outer edge is aligned with the outer edge of the passive door; an astragal 10 coupled to

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the outer edge of the passive door, wherein the astragal includes a metallic rail 15 having an exterior portion 33, an interior portion 22 spaced from and opposed to the exterior portion, and a side portion 20 that extends between the exterior portion and the interior portion and abuts the outer edge of the passive door, wherein an elongated open channel is defined in the metallic rail with sides formed by the exterior portion and the interior portion and a base formed by the side portion, wherein the elongated open channel has an opening extending between the exterior portion and the interior portion and opposed to the side portion, and wherein a wooden insert 16 is retained within the elongated open channel in the metallic rail that faces the active door in the closed position, the side portion 20 includes a thermal break (not numbered, but shown as the space between the side portion and the exterior flange extending to the right of and parallel to the side portion as shown in figure 2), door hardware 35 comprising a strike plate, a fastener 36, a gasket 17, an exterior flange (not numbered, but shown extending to the right of and parallel to the side portion 20), the wooden insert has a U-shaped cross section since it includes an indentation extending inwardly at a generally 90 degree angle to two co-planar surfaces of the wooden insert.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagemeyer et al. as applied to claims 1-3, 5-8, 10-17, 22, 32-36 and 38 above, and further in view of Germano. Germano discloses an astragal comprising a multiple pieces of wood.

It would have been obvious to one of ordinary skill in the art to provide Hagemeyer et al., with a construction, as taught by Germano, to reduce the cost of manufacturing the assembly.

Claims 9 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagemeyer et al. as applied to claims 1-3, 5-8, 10-17, 22, 32-36 and 38 above, and further in view of Massey et al. Massey et al. discloses an astragal 19 including a strike plate 21.

It would have been obvious to one of ordinary skill in the art to provide Hagemeyer et al. with a strike plate, as taught by Massey et al., to be able to securely latch the door to the astragal.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Procton as applied to claims 23 and 25-31 above, and further in view of Hagemeyer et al. Hagemeyer et al. discloses an astragal having an interior flange (not numbered, but shown in figure 6 at the upper portion of the wooden insert 78).

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It would have been obvious to one of ordinary skill in the art to provide Procton with an interior flange, as taught by Hagemeyer et al., to better attach the astragal to the passive door.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Procton as applied to claims 23, 25-29 and 31 above, and further in view of Hagemeyer et al.

Hagemeyer et al. discloses a metallic rail 79 having a side portion (not numbered, but shown in figure 6) and a fastener (not numbered, but shown in figure 6 as the screw) extending through the side portion into the outer edge of a passive door 28.

It would have been obvious to one of ordinary skill in the art to provide Procton with a fastener arrangement, as taught by Hagemeyer et al., to better attach the astragal to the passive door.

Response to Arguments

Applicant's arguments filed September 28, 2005 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Hagemeyer et al., the examiner respectfully disagrees. Hagemeyer et al. discloses an opening defined by the open end of the channel defined by the interior portion and the exterior portion. Since the side portion is on one side of the channel and the opening is on the opposite side of the channel, the opening is "opposed" to the side portion.

The applicant's comments concerning claim 23 are moot in view of the new grounds of rejection necessitated by the applicant's amendment to claim 23 in the response of January 13, 2006.

With respect to the applicant's comments concerning Wendt and Selzer, the examiner respectfully disagrees. Since both Wendt and Selzer disclose a molding, the disclose an astragal.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

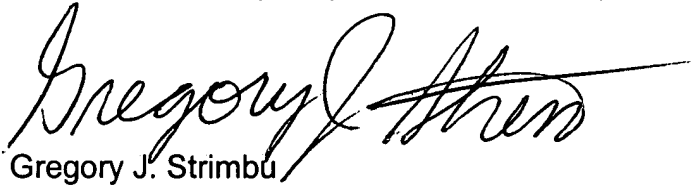
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
March 31, 2006